

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**MOSTAFA KAMAL**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 3:22CV208-SA-RP**

**SWINNEA ENTERPRISE, INC.  
doing business as Swinnea Food Mart, et al.**

**DEFENDANTS**

**ORDER STRIKING ANSWER AND DIRECTING  
CLERK TO ENTER DEFAULT**

The plaintiff brought this FLSA action against Swinnea Enterprise, Inc. doing business as Swinnea Food Mart (hereinafter “Swinnea”) and its owners, Habibur Rahman and Syed Akram Hossain. On August 16, 2023, the court allowed attorney John J. Bennett to withdraw as counsel for the individual defendants Rahman and Hossain, and the court gave said defendants until September 16, 2023 to retain substitute counsel, to notify the court that they intend to represent themselves without an attorney, or to notify the court that they no longer intend to defend against this case. ECF #41. The court warned said defendants that their failure to comply with the order would result in sanctions, including striking their answer to the complaint and entering default against them, as any failure to comply with the order would be construed as an indication that they no longer intend to defend against this action. The time for said defendants’ compliance with the order has expired, and no attorney has entered an appearance on their behalf, nor have they notified this court whether they wish to proceed *pro se* or no longer wish to defend against this case. As such, the court finds that their answer to the complaint should be stricken and that default should be entered against them.

In the same order allowing Mr. Bennett to withdraw as counsel for the individual defendants, the court conditionally granted Mr. Bennett’s request to withdraw as counsel for the

corporate defendant Swinnea. Because a corporation cannot represent itself and can only appear in court by an attorney at law, the court ordered Swinnea to retain substitute counsel by September 16, 2023. The court warned Swinnea that any failure to comply with the order would be construed as an indication that it no longer intends to defend against this action, in which event the court would then allow Mr. Bennett to withdraw as its counsel, its answer to the complaint would be stricken, and default would be entered against it. The time for Swinnea's compliance with the order has expired, and no substitute attorney has entered an appearance on Swinnea's behalf. Therefore, the court finds that Mr. Bennett should be allowed to withdraw, that Swinnea's answer to the complaint should be stricken, and that default should be entered against it.

THEREFORE, attorney John J. Bennett is withdrawn as counsel for the defendant Swinnea Enterprise, Inc.; the answer of the defendants Swinnea Enterprise, Inc., Habibur Rahman and Syed Akram Hossain [ECF #17] is STRICKEN; and the Clerk of Court is directed to enter default against all three defendants.

SO ORDERED, this the 25<sup>th</sup> day of September, 2023.

s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE